IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Crl.L.P..No. 565 of 2007()

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CC.772/2001 of JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I,THRISSUR

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PETITIONER/COMPLAINANT:

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MANAPPURAM GENERAL FINANCE AND
LEASING LIMITED, BROTHER'S COMPLEX, NAIKANAL,
THRISSUR-1, REPRESENTED BY ITS ASST.MANAGER,
LEGAL, AGED 31, BENNI THOMAS.

BY ADV. SRI.P.K.MANOMOHANAN

RESPONDENTS: ACCUSED & STATE:

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1. V.K. SIVADAS, S/O. KAPPAN,
VENNANGOT HOUSE, VENKITANGU P.O.,
THRISSUR (PAVARATTY POLICE STATION).

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.A.SREEJITH - R1
PUBLIC PROSECUTOR SRI. PUZHAKKARA MOHAMMED - R2

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K.THANKAPPAN, J.**

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**CRL. L.P. NO. 565 OF 2007**

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Dated this the 20th day of August, 2007

**O R D E R**

This petition for special leave to appeal is filed against the judgment in C.C. No.772 of 2001 on the file of the Judicial First Class Magistrate's Court I, Thrissur.

2. The case against the first respondent - accused was that as per the hire purchase agreement, the accused issued Exts.P4 and P5 cheques for Rs,79,093/- and Rs.97,994/- respectively in favour of the complainant which when presented to the bank for encashment were returned stating "account closed". The specific case of the first respondent was that the cheques in question were not intended to be presented to the bank and that as per the hire purchase agreement, the payment had to be made in instalments.

3. In the above circumstances, this Court is of the view that the court below was justified in finding that the appellant - complainant was

not entitled to any relief under Section 138 of the Negotiable Instruments Act,1881. It has also come out in evidence that the appellant had filed a civil suit against the first respondent. The said suit was decreed in favour of the first respondent.

The Crl. Leave Petition is accordingly dismissed.

**(K.THANKAPPAN, JUDGE)**

**sp/**

**K.THANKAPPAN, J.**

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**CRL. NO. OF**

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Dated this the 16th day of August, 2007

**JUDGMENT**

**(K.THANKAPPAN, JUDGE)**

**sp/**